

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSEPH SCHEINUCK,

No. C 09-0727 WHA (PR)

Plaintiff,

**ORDER DENYING LEAVE TO FILE
SECOND AMENDED COMPLAINT;
DIRECTING DEFENSE COUNSEL
TO ARRANGE FOR TRANSFER OF
PROPERTY OF TO SHOW CAUSE;
INSTRUCTIONS TO CLERK**

v.

CAPTAIN D. SEPULVEDA,

Defendant.

Plaintiff, a California prisoner proceeding pro se, has filed a civil rights complaint under 42 U.S.C. 1983. On September 30, 2009, the complaint was ordered served on the sole named defendant, Captain Sepulveda at the Santa Clara County Jail, where plaintiff was formerly housed. Plaintiff's motion to order the Santa Clara County Department of Corrections ("SCCDC") and the Deuel Vocational Institution ("DVI"), where plaintiff is currently housed, to transfer his property from SCCDC to plaintiff at DVI was denied because neither SCCDC nor DVI are parties to this action.

On October 30, 2009, plaintiff filed an amended complaint, which he has called his "Second Amended Complaint." This amended complaint does not set forth any claims, however. Rather, plaintiff simply states that he wants to add claims of denial of medical care, denial of access to the courts, denial of the right to counsel, and denial of free exercise of religion, but that he cannot do so until he obtains property he had while in custody with the SCCDC. As the amended complaint does not set forth any claims, nor does it explain how the


1 claims plaintiff wants to bring would be properly joined in this action under Federal Rule of
2 Civil Procedure 20(a), leave to file the so-called "Second Amended Complaint" is **DENIED**.

3 Plaintiff names the SCCDC as a defendant in his October 30, 2009 "Second Amended
4 Complaint," and he attaches thereto another motion to have SCCDC transfer his property to him
5 at DVI, as well as correspondence between plaintiff and SCCDC officials in which plaintiff
6 SCCDC officials have denied his requests for his property to be sent to him at DVI. It is
7 apparent that plaintiff wishes to have SCCDC added as a defendant in this action, and for an
8 order directing SCCDC to send him his property. As there are no claims against SCCDC, it
9 cannot be added as a defendant. However, defendant was an employee of the SCCDC at the
10 time of the events complained of herein. Accordingly, defendant's counsel, the Santa Clara
11 County Counsel's Office, is directed to arrange for the SCCDC to send plaintiff his property at
12 DVI or to show cause why it cannot, within thirty days of the date defendant is served by the
13 summons and complaint as directed in the September 30, 2009 Order of Service.

14 The Clerk shall mail a courtesy copy of this order to the Santa Clara County Counsel's
15 Office.

16 **IT IS SO ORDERED.**

17 Dated: November 12, 2009

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20 WILLIAM ALSUP
21 UNITED STATES DISTRICT JUDGE
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